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In re Application of
POLIAKOFF et al. :
Serial No.: 09/914,699 :
PCT No.: PCT/GB00/00673 : DECISION ON PETITION
Int. Filing Date: 24 February 2000 : UNDER 37 CFR 1.181
Priority Date: 04 March 1999 :
Atty. Docket No.: 2577/104 :
For: ACID-CATALYSED REACTIONS :

This is a decision on applicants' "PETITION TO WITHDRAW HOLDING OF ABANDONMENT NOTICE TO FILE MISSING PARTS NOT RECEIVED" filed in the United States Patent and Trademark Office on 14 August 2002.

BACKGROUND

On 24 February 2000, applicants filed international application PCT/GB00/00673 which claimed a priority date of 04 March 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 08 September 2000. A Demand was filed with the International Preliminary Examining Authority. As a result, the deadline for entry into the national stage in the United States expired 30 months from the priority date, on 04 September 2001.

On 31 August 2001, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia: the basic national fee; a copy of the international application; and a first preliminary amendment.

On 18 October 2001, the United States Designated/Elected Office mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 26 July 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 18 October 2001 within the time period set therein.

On 14 August 2002, applicants filed present petition accompanied by a copy of the docket record and an executed declaration.

DISCUSSION

With regards to applicants' request that the holding of abandonment be withdrawn, a proper showing in order to establish that papers were not received as set forth in the Official Gazette at 1156 OG 53 must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Applicant's petition filed 14 August 2002 satisfies items (1) and (2) above.

However, as to item (3) applicants have provided a copy of the docket record which purportedly shows where the paper would have been entered had it been received. The printout of the docket report for this specific application is not sufficient to establish that the Notification of Missing Requirements was not received and misdocketed to another application. Accordingly, applicant is required to provide docket records for 18 December 2001, indicating all applications for which a response was due on said date.

Thus, applicants have not provided the proper showing necessary to withdraw the holding of abandonment and the petition may not be properly granted.

CONCLUSION

The Petition to Withdraw Holding of Abandonment under 37 CFR 1.181 is **DISMISSED** without prejudice and the application remains **ABANDONED**.

If reconsideration of the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." No additional fee is required. Extensions of time under 37 CFR 1.136(a) are permitted.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

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